IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 250 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE N.G.NANDI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

PATEL KHOD KALA

Appearance:

1. First Appeal No. 250 of 1987

MR. L.R. PUJARI,GOVERNMENT PLEADER for Petitioners No. 1-2

MR SURESH M SHAH for Respondent No. 1

MR JC SHETH for Respondent No. 2

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE N.G.NANDI

Date of decision: 16/01/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

1. The State of Gujarat and the Special Land Acquisition Officer, Rajkot, as the appellants have filed the present appeal against the impugned judgment & award dated 10-4-1986 passed by Learned Extra Assistant Judge, Rajkot, in Land Acquisition Case No. 32 of 1981 filed by respondent No.1- original applicant Shri. Patel Khoda Kala; whereby learned Judge had partly allowed the application and the claim made by the respondent-applicant under section 18 of the Land Acquisition Act, 1894 (for short the 'Act'), and ordered the present appellants to pay to the applicant Rs.17,165/- towards value of land, standing crops, trees and structures and Rs.5,150/- by way of 30 % solatium on the aforesaid amount of claim as under section 23 of the Act. They were also directed to pay interest to the applicant at the rate of 9 % per annum from the date of possession till realisation.

2. Learned AGP Shri. Laxman Pujari for the appellants vehemently submitted that, learned Judge has committed grave error in passing the award in favour of respondent-original applicant. He has submitted that, the land in question which was acquired was of Government and the original applicant was having illegal possession of it as he had encroached upon the said land,therefore he would not be entitled for any compensation. This very contention was raised before the learned Judge and considering section 3 (G) read with section 18 of the Act, in our considered opinion, learned Judge has rightly rejected the same because the person interested is entitled for the compensation. In the instant case it is a fact that, the respondent- original applicant was in possession of the land which was nourished and developed by him. Under the circumstances it cannot be said that, learned Judge was in any way wrong in rejecting this contention. We also concur with the view taken by learned Judge and accordingly this contention is rejected.

3. On the question of compensation, learned AGP Shri. Pujari had hardly anything to say. The amount awarded to the respondent applicant is only reasonable which does not require any interference by this Court in this appeal.

4. Before parting, we may state that, this acquisition is of the year 1956 and since then 45 years have passed, and now the matter must rest here. In view

of the above observations, we do not find any substance in this appeal and accordingly it fails and is dismissed. However, there shall be no order as to costs.

Dt: 16-1-2002 (B.J. Shethna, J) (N.G. Nandi, J)

/vgn